

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the application of: Uri GELLER

Serial No.: 09/757,609

Filed: January 11, 2001

Examiner: David R. O'Steen

Group Art Unit: 3623

For: METHOD AND SYSTEM FOR ENABLING VIEWER POLLING AND
ELECTION OF PROSPECTIVE PARENTS IN BROADCAST CHILD
ADOPTION PROCEEDINGS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

The present Reply Brief is being submitted in response to assertions made by the Examiner in the Examiner's Answer, and further in view of a recently issued BPAI decision, which is believed to shed relevant light on issues of the present case. No amendments, affidavits or other new evidence are being submitted herewith.

As has been argued by the appellant, the Adoptions Solutions website already provides a complete solution to the problem it seeks to solve, namely that of providing a way by which prospective parents, seeking children available for

adoption, can come to find out about them, while also providing a way for such parents to be discovered by birthmothers seeking adoptive parents. The Adoption Solutions website itself is the complete solution to this problem, and there is absolutely no reason to expect that any benefit could come from converting this existing solution into a game show.

The Board of Patent Appeals and Interferences recently addressed a similar issue in Ex Parte Rinkevich et al., Appeal No. 20071317, decided on May 29, 2007 (unpublished), in which the Board reasoned, "In the instant case, we conclude that a person of ordinary skill in the art having common sense at the time of the invention would not have reasonably looked to _____ to solve a problem already solved by _____" (reference citations left blank).

The facts of the present case are broadly analogous to those treated by the Board in Ex Parte Rinkevich et al. Namely, since the Adoptions Solutions website already solves the problem, and leaves nothing wanting in terms of a way for prospective parents and persons with children available for adoption to find out about each other, common sense dictates that a person of ordinary skill in the art would not have reasonably looked to the *game show* of Brasseur et al. to solve the problem already solved by the Adoption Solutions website. This is made even more true when one considers how utterly different and unrelated the game show of Brasseur et al. is to any kind of child adoption service; in short, the cited

reference has nothing to do with child adoptions whatsoever. Why would anyone, much less a person skilled in the art, think that the game show disclosed in this reference would be useful, in any way, to the field of child adoptions?

It is also important to recognize that the Adoption Solutions website does not actually have the goal of facilitating adoptions. As stated prominently on the website itself, "AdoptionSolutions.com is NOT an adoption agency or adoption facilitator (please read disclaimer). We simply hope to provide quality information, open the door to communication, and to transfer individuals interested in adoption to adoption agencies and adoption attorneys to complete the adoption process."¹ Hence, the Examiner's statement at the bottom of page 10 of the Examiner's Answer, "In an analogous art, the Adoption Solutions website provides an Internet facilitated means of connecting perspective parents with adoption-ready children" (emphasis supplied), is not only untrue but also expressly contradicted by the Adoption Solutions website itself.

Importantly, since it is not the goal of Adoption Solutions to actually match parents with children, the website itself would have no interest in implementing any kind of viewer participation or Internet voting scheme to choose the parents who should be awarded with a child for adoption.

¹ http://www.adoptionsolutions.com/about_us.htm

Indeed, this is contrary to the stated aims of the website, and thus the Adoption Solutions website itself strictly teaches away from the combination being proposed by the Patent Office. It is improper to combine references where the references teach away from their combination. In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983).

For the reasons delineated herein and in the Appellant's Brief filed on March 27, 2007, the claims pending in the subject patent application are not obvious over the teachings of Brasseur et al. in view of the Adoption Solutions website. It is, accordingly, appropriate for the Examiner's rejections to be reversed.

This reply has been timely submitted within two months from the date of the Examiner's Answer, on the Tuesday following a federal holiday. Should it be deemed that any fees are required in connection with this or any accompanying paper, such fees may be charged to the attorney's deposit account no. 07-2519.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Paul A. Guss', with a long horizontal flourish extending to the right.

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